

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JAVIER AYALA,

*Plaintiff,*

v.

GOOD NEIGHBOR DENTAL,

*Defendant.*

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CIVIL ACTION NO.

H: 15-cv-2098

NOTICE OF REMOVAL

The United States of America, through the undersigned Assistant U.S. Attorney, and on behalf of defendant, Fourth Ward d/b/a Good Neighbor Health Center, incorrectly sued as “Good Neighbor Dental,” files this Notice of Removal upon showing:

1.

This matter involves a civil action for negligence against defendant Fourth Ward d/b/a Good Neighbor Health Center, incorrectly sued as “Good Neighbor Dental,” a federally supported health care facility which receives grant money from the United States Public Health Service pursuant to 42 U.S.C. 256. The Bureau of Primary Health Care (BPHC), in accordance with Section 224(h) of the Public Health Service (PHS) Act, 42 U.S.C. § 233(h), as amended by the Federally Supported Health Centers Assistance Act of 1995 (“FSHCAA”)(Pub. L. 104-73), has “deemed” the defendant, and its employees including Stacie Burch, D.D.S, employees of the Federal Government, effective January 1, 2012 and January 1, 2013, and that its coverage has continued without interruption since that time for purposes of Section 224. Section 224(a) provides liability protection under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346(b),

2671 *et seq.*, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, and related functions and is exclusive of any other civil action or proceeding.

2.

Because plaintiff's civil action was commenced in State court against a federally supported health care facility covered under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.*, this action is properly removed under 28 U.S.C. §§ 1442(a), the Federal Tort Claims Act, 28 U.S.C. § 2679(d)(2), and pursuant to the Federally Supported Health Care Assistance Act, 42 U.S.C. § 233.

WHEREFORE, this civil action is properly and timely removed by the United States of American on behalf of defendant, Fourth Ward d/b/a Good Neighbor Health Center, incorrectly sued as "Good Neighbor Dental."

Respectfully submitted,

KENNETH MAGIDSON  
United States Attorney

/s/ Fred T. Hinrichs

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Attorney for defendant Fourth  
Ward, d/b/a Good Neighbor  
Health Care Center

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was electronically served through the court's electronic filing system, or by U.S. Mail postage prepaid, on this 21st day of July 2015, to the following:

Javier Ayala  
7450 Walker Street  
Houston, TX 77011

/s/ Fred T. Hinrichs

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FRED T. HINRICHS  
Assistant United States Attorney